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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 EDWARD LEE KING,

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11 Petitioner,

12 v.

13 MAGGIE MILLER-STOUT,

14 Respondent.

Case No. C08-1770-MJP

ORDER DENYING RESPONDENT'S
MOTION TO DISMISS PETITION

15 The Court, having reviewed petitioner's petition for writ of habeas corpus, respondent's
16 motion to dismiss, the Report and Recommendation of Brian A. Tsuchida, United States
17 Magistrate Judge, and the remaining record, does hereby find and Order:

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19 (1) The Court adopts the Report and Recommendation.

20 (2) Respondent's motion to dismiss the petition as a "second or successive" petition
21 under 28 U.S.C. § 2244(b)(3)(A) (Dkt. No. 7) is DENIED.

22 (3) Respondent, upon receipt of Magistrate Judge Tsuchida's Report and
23 Recommendation, has filed an Answer and Memorandum of Authorities responding to Mr.
24 King's petition. (See Dkt. No. 12.)

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ORDER DENYING MOTION TO DISMISS

1 (4) The Clerk is directed to send copies of this Order to petitioner, to counsel for
2 respondent, and to Judge Tsuchida.
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4 DATED this 5th day of May, 2009.

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7 Marsha J. Pechman
8 United States District Judge
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